

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 7/26/2012

Action Requested By:
Legal

Agenda Item Type
Ordinance

Subject Matter:

New Lease for the Clemons House Property

Exact Wording for the Agenda:

Ordinance ratifying the lease with C & J, LLC, for the Clemons House Property; authorizing the release of Gary Conchin from the lease; and approving the transfer of Gary Conchin's interest to David Hodge.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: No

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: 

Date: 7-23-12

ORDINANCE NO. 12-_____

WHEREAS, heretofore, on February 12, 2004, the City Council of the City of Huntsville, Alabama adopted Resolution No. 04-122 whereby it authorized the Mayor to enter into a Ground Lease between The City of Huntsville, Alabama, as Lessor ("City"), and LMK Properties, LLC, an Alabama limited liability company, as Lessee ("LMK") (the "Ground Lease"), for the lease of the Clemens House real property and improvements located at 200 Pratt Avenue, N.E., Huntsville, Alabama (the "Clemens House Property");

WHEREAS, heretofore, on September 9, 2004, the City Council of the City of Huntsville, Alabama adopted Resolution No. 04-751 whereby it authorized the Mayor to enter into an Amendment to Lease Agreement between the City and LMK whereby the Ground Lease was amended in various respects (the "Ground Lease" as amended by said "Amendment to Lease Agreement" being the "Original Lease");

WHEREAS, heretofore, on September 11, 2008, the City Council of the City of Huntsville, Alabama adopted Resolution No. 08-893 whereby it authorized the Mayor to enter into a Consent to Assignment and Lease Extension between the City and C & J, LLC, an Alabama limited liability company ("C & J"), for the Clemens House Property, which included a new, amended and restated Ground Lease of the Clemens House Property (the "New Lease") which replaced in its entirety the Original Lease, all in substantially the form and substance of the document attached thereto as Exhibit "A";

WHEREAS, both the City and C & J, as the present landlord and tenant, respectively, under the New Lease find it desirable and necessary that the City adopt a municipal ordinance:

- a. (i) Authorizing, approving, ratifying and confirming the New Lease, in all respects and (ii) recognizing the rights and obligations of each of City and C & J created in the New Lease (A) as valid, binding and enforceable and (B) inuring to the benefit of and enforceable by, and binding upon and enforceable against, each of City and C & J according to its provisions and terms;
- b. Releasing Gary Conchin and Joe King, in their individual capacities, from any liability or obligation under the New Lease, if any; and
- c. Approving the transfer of Gary Conchin's ownership interest in C & J to David J. Hodge;

WHEREAS, the City Council of the City of Huntsville, Alabama expressly finds that at each of the times of the (a) authorizations of the Original Lease of the Clemens House Property, (b) authorization of said Consent to Assignment and Lease Extension, as well as the New Lease, and (c) continuously to the date hereof, the Clemens House

Property has at all times not been needed for public or municipal purposes.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Huntsville, Alabama:

1. That the New Lease of the Clemens House Property dated September 11, 2008 which is attached as Exhibit "A" to Resolution No. 08-893 of the City Council of the City of Huntsville, Alabama, and which is signed on the margin of the first page by the President Pro Tem of the City Council be, and the same is hereby, authorized, approved, ratified and confirmed in all respects by the City and the City Council who each recognize the rights and obligations of each of City and C & J created in the New Lease (a) as valid, binding and enforceable and (b) inuring to the benefit of and enforceable by, and binding upon and enforceable against, each of City and C & J according to its provisions and terms;
2. That Gary Conchin and Joe King, in their individual capacities, each be, and each of the same are hereby, released from all liability and obligation under the New Lease, if any; and
3. That the transfer of Gary Conchin's ownership interest in C & J to David J. Hodge be, and the same is hereby, approved in all respects.

ADOPTED this the 26th day of July, 2012.

Mark Russell,
President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 26th day of July, 2012.

Tommy Battle,
Mayor of the City of Huntsville,
Alabama